

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION - DETROIT**

IN THE MATTER OF:
CLAUDIA ELIZABETH GUTIERREZ
PRIMITIVO GUTIERREZ, IV, Debtors /

CHAPTER 13
CASE NO: 20-47011
JUDGE: MARIA L. OXHOLM

**TRUSTEE'S OBJECTION TO DEBTOR'S NOTICE OF PROPOSED
POST-CONFIRMATION CHAPTER 13 PLAN MODIFICATION**

NOW COMES the Chapter 13 Trustee, Tammy L. Terry, and objects to the debtor's notice of proposed post-confirmation plan modification and states as follows:

1. The debtor(s) filed for Chapter 13 relief on June 21, 2020. This matter was confirmed on October 14, 2020, which proposed monthly payments of \$677.37 for 60 months and 0% dividend to unsecured creditors. The term of the confirmed Plan also requires the debtor(s) to remit 100% of future income tax refunds to the Trustee for the benefit of creditors.
2. The debtor filed a post confirmation plan modification requesting to:
 - a. decrease the monthly plan payments from \$677.37 monthly to \$336.00 monthly due to the debtor having health issues.
 - b. to excuse the income tax refund(s) received by the debtor(s) for the year(s) 2020, 2021, 2022 and 2023, due to the debtors having a reduction in income.
 - c. The plan payment delinquency shall be excused.
 - d. The debtors shall remit their 2024 federal tax refund to the Trustee.
3. The Trustee objects to the debtor's failure to remit copies of the 2020 and 2023 Federal income tax returns to the Trustee to verify the amount of refund to be retained in comparison with the amount of unexpected expenses to determine if there are any remaining funds to be submitted to the Plan pursuant to 11 U.S.C. §1325 (b)(1)(B). The Trustee requests the debtor provide copies of the tax returns and the receipts for all unexpected expenses.
4. The Trustee objects to the Plan modification as the Trustee believes this request is not proposed in good faith pursuant to 11 U.S.C. §1329(b)(1). The debtors have not provided any documents to support why they could not make their Plan payments and why their income tax refunds need to be excused. The Plan modification indicates that the debtor had health problems, however, the Trustee has not received any support documents.
5. The Trustee objects to the debtor's Plan modification as it fails to provide the specific dates for payments the debtor(s) is/are requesting to excuse, and or fails to provide a specific amount to be excused. Without this information, the Trustee is unable to administer this Plan modification.

6. The Trustee objects to the debtor's plan modification as the debtors have failed to provide their verification for the sources of income that they have listed on their amended Schedule I. Specifically, the Trustee needs verification of how much the debtors are now receiving from social security and the VA income.

7. As the debtor(s) have a history of failing to make plan payments which is prejudicial to creditors, the Trustee requests that the debtor(s) agree to a 30-day future default where as if they fail to make a payment, the Trustee may file a Notice of Default that will require them to cure the default in thirty (30) days or the case may be dismissed upon the Trustee's affidavit of noncompliance.

WHEREFORE, the Chapter 13 Trustee requests this Honorable Court deny the debtor's proposed plan modification and/or grant any relief this Court deems to be just and appropriate.

05/22/2025

OFFICE OF THE CHAPTER 13 TRUSTEE - DETROIT

TAMMY L. TERRY

/S/ MARILYN R. SOMERS-KANTZER (P52488)

Staff Attorney

/S/ KIMBERLY SHORTER-SIEBERT (P49608)

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CERTIFICATE OF SERVICE

I hereby certify that on **05/22/2025**, I served the following paper(s):
**TRUSTEE'S OBJECTIONS TO DEBTOR'S POST-CONFIRMATION CHAPTER
13 PLAN MODIFICATION**

on the following parties at these addresses via USPS mail:

CLAUDIA ELIZABETH GUTIERREZ
PRIMITIVO GUTIERREZ, IV
46780 AYRES AVE
BELLEVILLE, MI 48111

And served electronically via ECF to following:

GUDEMAN & ASSOCIATES, PC
401 N MAIN ST
ROYAL OAK, MI 48067

OFFICE OF THE CHAPTER 13 TRUSTEE - DETROIT
/S/ LATOYA ETHRIDGE (LA)
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